

Grazing in a Changing Nordic Region

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Governance of Pastoral Lands - Developing Legislation and Policy Frameworks for Grazing

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Governance of Pastoral Lands

IUN FAO *“improving governance of pastoral lands”* -

- Implementing the UN *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*

Section 3: Developing policy and legal frameworks for pastoralism

- Inspiring international principles
- Developing pastoral land policy
- Defining national legislation relevant to pastoralism

Improving governance of pastoral lands

Implementing the Voluntary Guidelines on the
Responsible Governance of Tenure of Land,
Fisheries and Forests in the Context of
National Food Security



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- National legislation to manage grazing can draw on international and regional instruments that address human rights and tenure rights
- Principles and elements from these instruments provide guidance on internationally accepted practices for legal systems that deal with the rights to use grazing land
- They can also contribute to the development of policy, regulation of various rights over grazing land and can strengthen the capacity and operations of implementing agencies, judicial authorities, local government, grazing organizations, and occupiers of grazing land.

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- Establishing national grazing land policy and law by following various established principles will contribute to better governance.
- This may involve introducing new laws for grazing, or amending or repealing existing laws.
- International instruments can stimulate national-level processes and affect the governance of tenure: more specifically - land administration, transfer of land, allocation of grazing tenure rights, land use planning, resolution of disputes over tenure rights, land trust, customary tenure systems and climate change.

Underlying challenges

Reconciling relationships between states and pastoralist communities

Managing conflicting interests and claims for lands and other resources

Improving consultation and participation mechanisms for pastoralists, recognizing them as citizens with legitimate rights

Specific legal requirements for pastoralism (including mobility, corridors and transboundary issues)

Developing integrated land use planning at relevant scales

Policy & Legal Responses

Inspiring International Principles

Developing Pastoral Land Policy

Vision and Strategy

Enabling Policies

Drafting National Legislation Relevant to Pastoralism

Legal and Institutional Elements

Transboundary Agreements

Integrated Participatory Land Use Planning

Key Legal Elements of Importance to Pastoralism

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- Principles drawn from international environmental law and policy sources relevant to the governance of grazing land in the Nordic Region can be used in either of two ways in reforming or framing national pastoral law:
 - As a basic underlying policy and ethical position to frame a particular legal and institutional element, that will help achieve responsible governance of pastoral tenure arrangements.
 - As a separate, specific State legal and institutional element, or integrated with another State-level element.

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- Principle 1: Good governance
- Principle 2: Sustainable development
- Principle 3: Inter-generational and intra-generational equity
- Principle 4: Responsibility for transboundary harm
- Principle 5: Transparency and public participation
- Principle 6: Cooperation and common but differentiated responsibilities
- Principle 7: Precaution
- Principle 8: Prevention
- Principle 9: Polluter pays principle
- Principle 10: Access and benefit sharing
- Principle 11: Common heritage and common concern of humankind
- Principle 12: Non-regression

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- Various “generic” legal and institutional elements can also be drawn on in developing or reforming national law and policy for grazing.
- National law should recognize and protect basic tenure rights. This should include enabling tenure rights holders to secure their rights, even if these are not formalized.
- The elements provide for the basic rights and entitlements of pastoral people including participation in decision-making, institutions to represent grazing rights and the maintenance of traditional practices.
- Legal elements to assist with drafting of grazing laws include the following:

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Developing Pastoral Land Policy

- Developing a National Pastoral Land Strategy
- Changing mind-sets
- Enabling Policies

Relevant Institutional Framework

- Pastoral Land Rights
- Legal Aspects of Customary Land Tenure

Transboundary agreements

- Transboundary management
- Obligation to notify other States
- Resolution of Transboundary Disputes

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Integrated participatory land use planning

- Management plans
- Land assessment and Planning
- Land use agreements

Pastoral land institution

- Coordinating function
- Distribution of responsibility
- General functions of a pastoral land institution
- Monitoring
- Participation and information

Rights and duties to use

Mobility

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Enforcement

Access to justice

- Access to relevant information relating to breaches of the legislation, through freedom of information provisions;
- Access to information regarding land tenure;
- Provision of financial assistance for individuals and groups to bring civil enforcement actions;
- Prosecutions for a breach of pastoral land legislation

Dispute Resolution

- Negotiation, inquiries, mediation and conciliation, arbitration and judicial settlement

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Key aspects to consider in national legislation to manage pastoral systems in the Nordic Region include:

- Opportunity to adapt to climate change and variability;
- Compiling information on pastoral LM to manage pastoral land;
- Incentives for sustainable use of biodiversity and reversing LD;
- Establishing policies that address awareness and capacity for good pastoral land management and providing security for communities;
- Conducting research in pasturelands and livestock-based ecosystems;
- Using integrated processes to address the NR and social issues;
- Integrating traditional and modern technical systems;
- Improving capacity to use funding mechanisms to address poverty, desertification, drought and loss of biodiversity;

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Concluding points

- Secure tenure plays an essential role in sustainable grazing.
- In a rapidly changing environment with issues such as climate change, rising insecurities, land privatization and diminishing resources, the need to strengthen responsible governance of tenure has never been more important.
- Essential elements for sustainable grazing such as securing customary rights and mobility have to be incorporated at various levels.
- In many countries legislation for grazing is already in place but can be improved.
- The FAO Technical Guide can be used to review legal frameworks against its principles and elements.